

O.A. No. 719 /2016

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

Heard Shri G.G. Bade, Id. Counsel for the applicant and Shri S. Deo, Id. C.P.O. for R/1.

Issue Notice to the respondents returnable in **4 weeks.**

Hamdast granted.

Ld. C.P.O. waives notice for R/1.

The Tribunal may take the case for final disposal at the admission stage and separate notice for final disposal shall not be issued.

Applicant is authorized and directed to serve on the Respondent intimation/ notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.

This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as

limitation and alternate remedy are kept open.

The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within three weeks. Applicant is directed to file Affidavit of compliance of notice.

Member (J)

Skt.

O.A. No. 718 /2016

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

Heard Shri G.G. Bade, Id. Counsel for the applicant and Shri S. Deo, Id. C.P.O. for R/1.

Issue Notice to the respondents returnable in **4 weeks.**

Hamdast granted.

Ld. C.P.O. waives notice for R/1.

The Tribunal may take the case for final disposal at the admission stage and separate notice for final disposal shall not be issued.

Applicant is authorized and directed to serve on the Respondent intimation/ notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.

This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as

limitation and alternate remedy are kept open.

The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within three weeks. Applicant is directed to file Affidavit of compliance of notice.

Member (J)

Skt.

O.A. No. 717 /2016

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

Heard Shri G.G. Bade, Id. Counsel for the applicant and Shri S. Deo, Id. C.P.O. for R/1.

In this O.A., the applicant is only claiming directions to the respondent no. 2 to decide his appeal which was filed on 1/3/2014 against the order of R/3. The Id. P.O. seeks 4 weeks' time to ascertain the status of the appeal and file a short affidavit. In the meantime Issue Notice to the respondents returnable in **4 weeks.**

Hamdast granted.

Ld. C.P.O. waives notice for R/1.

The Tribunal may take the case for final disposal at the admission stage and separate notice for final disposal shall not be issued.

Applicant is authorized and directed to serve on the Respondent intimation/ notice of date of hearing

duly authenticated by Registry, along with complete paper book of O.A.

This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within three weeks. Applicant is directed to file Affidavit of compliance of notice.

Member (J)

Skt.

O.A. No. 716 /2016

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

Heard Shri N.D. Thombre, Id. Counsel for the applicant and Shri H.K. Pande, Id. C.O. for R/1.

Issue Notice to the respondents returnable in **4 weeks.**

Hamdast granted.

Ld. C.P.O. waives notice for R/1.

The Tribunal may take the case for final disposal at the admission stage and separate notice for final disposal shall not be issued.

Applicant is authorized and directed to serve on the Respondent intimation/ notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.

This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as

limitation and alternate remedy are kept open.

The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within three weeks. Applicant is directed to file Affidavit of compliance of notice.

Member (J)

Skt.

O.A. No. 677 /2016

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

Heard Shri N.D. Thombre, Id. Counsel for the applicant and Shri M.A. Barabde, Id. P.O. for R/1.

Vide the impugned recovery notice dtd. 28/12/2015, the respondents are recovering the amount of Rs. 3,09,372/- from the pay of the applicant on the ground that the amount was paid in excess due to wrong pay fixation . The said recovery is pertained to the period from 1/1/2006 till 1/7/2014. The respondents are directed not to recover the amount till further orders. In the meantime Issue Notice to the respondents returnable within **4 weeks.**

Hamdast granted.

Ld. P.O. waives notice for R/1.

The Tribunal may take the case for final disposal at the admission

stage and separate notice for final disposal shall not be issued.

Applicant is authorized and directed to serve on the Respondent intimation/ notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.

This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

The service may be done by Hand delivery, speed post, courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within three weeks. Applicant is directed to file Affidavit of compliance of notice.

Member (J)

Skt.

O.A. No. 639 /2016

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

Shri P.V. Thakre, Id. Counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

Ld. P.O. seeks time to file reply.

S.O.4 weeks.

Member (J)

Skt.

O.A. No. 619 /2016

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

Heard Shri S.A. Choudhari, Id. Counsel for the applicant and Smt. S.V.. Kolhe, Id. P.O. for the respondents.

The applicant has challenged the impugned order of his suspension dtd. 25/8/2016. The applicant was suspended because of the contemplated departmental enquiry. The Id. Counsel for the applicant admits that the charge-sheet has been issued against him and the D.E. has been initiated. He submits that the applicant's case for revocation of suspension be placed before the Competent Committee as per the G.R. dtd. 14/10/2011.

In view thereof the Id. Counsel for the applicant submits that the application be disposed of. Hence the following order :-

The respondents are directed to place the applicant's case for revocation of suspension before the Competent Committee as per the G.R. dtd. 14/10/2011. The Competent Committee may take decision as regards the revocation of the suspension of the applicant in the given circumstances and as per the rules thereon. The said decision shall be communicated to the applicant in written. It is hope that the D.E. will be completed as per rules within the given time frame.

Member (J)

Skt.

O.A. No. 585 /2016

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

Shri D.G. Gawande, Adv. holding for Shri Kadu, Id. Counsel for the applicant , ShriV.A. Kulkarni, Id. P.O. for R/1, and Shri D.A. Sonwane, Id. Counsel for R/2.

S.O. after vacation.

Member (J)

Skt.

O.A. No. 494 /2016

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

Heard Shri R.G. Kavimandan, Id. Counsel for the applicant and M.I. Khan, Id. P.O. for the respondents 1,2, 4 and 5. None for R/3.

Pleadings are completed and the matter is admitted .

Ld. P.O. waives notice for R/1 2, 4 and 5.

Hearing expedited.

Member (J)

Skt.

O.A. No. 401 /2016

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

Shri N.D. Thombre, Id. Counsel for the applicant, Shri R.A. Gupte, Adv. holding for Shri Sachin Zoting, Id. Counsel for R/5 and Shri M. Bajpai, Id. Counsel for R/6.

The Ld. P.O. seeks time for which the Id. Counsel for the applicant strongly objected. As a last chance,

S.O. 16/11/2016.

Member (J)

Skt.

O.A. No. 357 /2016

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

Shri R.V. Shiralkar, Id. Counsel for the applicant, Shri R.A. Gupte, Adv. holding for Shri Sachin Zoting, Id. Counsel for R/6 and Shri M. Bajpai, Id. Counsel for R/5.

The Ld. P.O. seeks time for which the Id. Counsel for the applicant strongly objected. As a last chance,

S.O. 16/11/2016.

Member (J)

Skt.

O.A. No. 250 /2016

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

Heard Shri S.C. Deshmukh, Id. Counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the respondents.

The Id. Counsel for the applicant submits that the application can be disposed of if directions are issued in respect of prayer clause (i) . Vide the said clause the applicant is claiming direction to Respondent Nos. 2 to 4 to supply and submit the attested copies of documents/certificates and information as required to skilled development department, Mantralaya, Mumbai, as per their letter dtd. 4/2/2016 . The Id. P.O. submits that the respondents no. 2 to 4 are ready to supply such documents if 4 weeks' time is granted. He submits that some of documents are already supplied though the applicant has objected to the statement that some of the

documents are already supplied. In view thereof the O.A. stands disposed of with the following directions :-

Respondent Nos. 2 to 4 are directed to supply and submit the attested copies of documents/ certificates and information as required to skilled development department, Mantralaya, Mumbai, as per their letter dtd. 4/2/2016 within 4 weeks from the date of this order. No order as to costs.

Member (J)

Skt.

O.A. No. 2/2016

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

Heard Shri R.M. Pande, Shri M.I. Khan, Id. P.O. for R/1 and Shri A. Parihar, Id. Counsel for R/2. None for R/3.

This petition can be disposed of in view of the submissions made by the Id. Counsel for the applicant that the applicant be accommodated at Gondia till the academic session of 2016-17 since his daughter is studying in 12th standard. It is an admitted fact that the applicant has been protected by the interim relief of this Tribunal and he is still working at Gondia in spite of his transfer vide the impugned order dtd. 20/12/2015. The similar representation was filed by the applicant on 29/12/2015 to the Govt. as per Annexure-A-4.

The respondents have stated that the impugned order of transfer

has been passed because there were complaints against the applicant.

If the transfer order is passed because of the complaints against the applicant, then it may be punitive order. However, without going into the merits of the said aspect, the application can be disposed of if the applicant is accommodated will the general annual transfer in 2017. In view thereof, the following order is passed :-

The O.A. stands disposed of with directions to the respondents to allow to continue the applicant to work at Gondia till the general annual transfer of 2017.

Member (J)

Skt.

O.A. No. 830 /2015

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

Heard Shri S.A. Dhawas, Id. Counsel for the applicant and Shri M.I. Khan, Id. P.O. for the respondents.

In the O.A., the applicant has claimed the following reliefs :-

- A) To issue appropriate order/directions/writ to the respondents to release the arrears of salary Rs.10,48,676/- (Rs. Ten Lacs Forty Eight thousands Six Hundred and Seventy Six), **Alternatively**, in the event if it is found that the said amount is not exactly correct in that event the applicant prays to release the total amount of arrears in terms of revised pay scale **w.e.f. 22/11/2009 till the month of June 2012.**

B) To direct the respondents to release the salary of the month of January-2013 and increments which are withheld by the respondents by an order dated 14/8/2012.

The reply-in-affidavit has already been filed. The Id. P.O. was directed to take instructions in this regard. The Id. P.O. has placed on record the copy of the order passed on 16/10/2016, which is marked as Exhibit 'X' for the purpose of convenience, in which it is stated that the amount stated in the said order has been sanctioned to the applicant. The Id. P.O. makes a statement that the cheque for the said amount is being issued today itself to the applicant and that the O.A. can be disposed of accordingly. In view of the statement made by the Id. P.O. as well as the order dtd. 16/10/2016 (Exhibit 'X') noting survives in the O.A. Hence the

O.A. stands disposed of accordingly
with no order as to costs.

Member (J)

Skt.

O.A. No. 451 /2016

Coram : J.D. Kulkarni : M (J).

Dated : 27th October, 2016.

C.A. No.502/2016.

Shri N.D. Thombre, Id. Counsel for the applicant and Shri A. Khadatkar, Id. P.O. for the respondents.

The Ld. P.O. submits that the representation filed by the applicant has been rejected. However, still the issue remains as to whether the impugned transfer order is legal or not. In the meantime, the applicant has also filed C.A. No. 502/2016 and submitted that he has filed an application for voluntary retirement. The Id. P.O. may file reply to the O.A. as well as to the C.A., for which he seeks 4 weeks' time.

S.O. 4 weeks.

Member (J)

Skt.

O.A. st. No.1972/2016.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

C.A.No.490/16:-

Heard Shri N.D. Thombre, Id. counsel for the applicant and Shri S. Sanis, Id. P.O. for the respondents.

In the O.A. the applicant has challenged the order dtd. 5/9/2013 issued by the R/3 whereby recovery has been imposed . There is a delay of 18 days in filing the O.A. For the reasons stated in the O.A. , the C.A. for condonation of delay is allowed and the O.A. is registered to file.

O.A.

Vide the impugned communication dtd. 5/9/2013 the respondent has directed the applicant to reply the amount of Rs.1,26,530/- as the excess payment paid due to wrong fixation of pay. The said order so far as recovery is concerned, it is stayed till filing of the reply. In the meantime

issue Notices to the respondents returnable in 4 weeks.

Hamdast granted.

The Id. P.O. waives notice for R/1.

The Tribunal may take the case for final disposal at this stage and separate notice for final disposal shall not be issued.

Applicant is authorized and directed to serve on respondents intimation / notice of date of hearing duly authenticated by Registry, alongwith complete paper book of the O.A.

This intimation/notice is ordered under Rule 11 of the Maharashtra Administrative Tribunal (Procedure) Rules, 1988 and the question such as limitation and alternate remedy are kept open.

. The service may be done by Hand delivery, speed post, courier and acknowledgment be obtained and produced along with an affidavit of

compliance in the Registry as far as possible once week before the date fixed by this Tribunal. Applicant is directed to file affidavit of compliance and notice

Member

(J)

O.A No. 366/2016.

Division Bench Matter

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

Shri V.R. Patre, Id. counsel for the applicant.

Shri M.I. Khan, Id. P.O. for the respondent no's 1 to 4.

Shri A.R. Ingole, the learned counsel for respondent no. 5.

Final order pronounced in open court today.

Original Application no. 366/2016 is dismissed & all the proceedings are closed.

Member

(J)

O.A No. 91/2016.

CORAM : J.D. Kulkarni, Member (J)
DATE : 27th October 2016.

Shri S.N.Gaikwad, the learned Counsel for the applicant & Shri A.P.Potnis, learned P.O. for the respts.

Order pronounced in open court today.

O.A. is dismissed & all the proceedings are closed.

Member (J)

O.A No. 42/2016 And 75/2016

CORAM : J.D. Kulkarni, Member (J)
DATE : 27th October 2016.

Shri M.R.Saboo, the learned Counsel for the applicants & Smt. M.A.Barabde, learned P.O for the respondent Nos. 1 to 3. Shri C.V.Khadse and Shrikant Saoji, respondent no.4

Common order pronounced in open court today.

O.As are allowed & all the proceedings are closed.

Member
(J)

Cont. Petn. St. No. 973/16
in O.A. No.482/2005.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

C.A.No.264/16:-

None for the applicant, Shri S.Deo,
Id. C.P.O. for the respondents.

The Id. C.P.O. submits that the
State has preferred an appeal and the
same is pending. **S.O. 04 Weeks.**

Member
(J)

aps

Cont. Petn. St. No. 1595/15
in O.A. No.305/2013.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

C.A.No.391/15:-

Shri R.V.Shiralkar, Id. counsel for the applicant and Shri M.I.Khan, Id. P.O. for the respondents.

At the request of Id. counsel for the applicant, **S.O. after Diwali Vacation.**

The matter should be kept as and when the Division Bench will be available.

Member

(J)

aps

Cont. Petn. St. No. 47/16
in O.A. No.860/2010.

CORAM : J.D. Kulkarni, Member (J)
DATE : 27th October 2016.
C.A.No.13/2016:-

None for the applicant. Shri Pandey, Id. P.O. for the respondents no. 1 & 3. Await service of R-2. None for R-4, 5 & 6.

S.O. after Diwali Vacation.

Member
(J)

aps

Cont. Petn. St. No. 936/16
in O.A. No.182/2009.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

C.A.No.269/2016:-

None for the applicant. Smt. Barabde, Id. P.O. for the respondents.

The Id. P.O. files the reply on behalf of R-3, Superintendent of Police, Yavatmal, the same is taken on record. Copy is served to the other side. The applicant has not collected the notices for R-2.

S.O. after 04 weeks.

Member

(J)

aps

Cont. Petn. St. No. 1259/16
in O.A. No.387/2014.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

C.A.No.324/2016:-

Heard, Shri A.R.Ingole, Id. counsel for the applicant and Smt. Kolhe, Id. P.O. for the respondents.

The Id. P.O. submits as per the direction of the Tribunal in O.A.387/2014 the case of the applicant was kept for consideration for promotion to the post of Naib Tahsildar in the D.P.C. meeting dated 05/01/2016 and the applicant was found unfit for promotion. The case of the applicant was again kept for reconsideration in the D.P.C. meeting dated 19/10/2016 and again the applicant has been found unfit. The Id. P.O. seeks time to place on record the said decision. Id. P.O., therefore, directed to place the said decision on record so that the

applicant may taken further step. **S.O. 03 weeks.**

Member
(J)

aps

Cont. Petn. St. No. 1477/16
in O.A. No.639/2009.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

C.A.No.371/2016:-

1. Heard, Shri V.V.Tekade, Id. counsel for the applicant and Smt. Barabde, Id. P.O. for the respondent no. 1.
2. Vide letter dated 28/04/2016 this Tribunal directed to take action within 10 weeks from the date of the receipt of the order. The Id. P.O. submits that the respondents filling writ petition before Hon'ble High Court against the order dated 28/04/2016. Admittedly the said writ is not yet filed and therefore it is a non compliance of the order. Hence, issued notice in C.A. returnable within 03 weeks.

3. Heard Shri V.V.Tekade,, the learned counsel for the applicant and Smt. Barabde, learned P.O. for respondent No.1.

4. Issue notice to R. 2 to 4 returnable **after three weeks.**

5. Smt. Barabde, learned P.O. waives notice for respondent No.1. Hamdast granted.

6. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.

7. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.

8. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunals (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.

9. The service may be done by hand delivery, speed post or courier and acknowledgement be obtained and

produced along with affidavit of compliance in the Registry within three weeks. Applicant is directed to file Affidavit of compliance and notice.

Member

(J)

aps

Cont. Petn. St. No. 1257/16
in O.A. No.562/2013.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

C.A.No.326/2016:-

None for the applicant and Shri S.A.Sainis, Id. P.O. for the respondents.

The Id. P.O. files reply on behalf of the respondent no. 2, it is taken on record. He undertakes to serve the copy to the other side. **S.O. after 03 weeks.**

Member

(J)

aps

Cont. Petn. St. No. 1528/16
in O.A. No.173/2006.

CORAM : J.D. Kulkarni, Member (J)
DATE : 27th October 2016.
C.A.No.389/2016:-

Shri R.V.Shiralkar, Id. counsel for the applicant and Shri Pandey, Id. P.O. for the respondents.

The Id. P.O. files reply on behalf of the respondent no. 2, it is taken on record. He undertakes to serve the copy to the other side, **S.O. after 03 weeks.**

Member

(J)

aps

Cont. Petn. St. No. 1774/16
in O.A. No.394/2016.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

C.A.No.441/2016:-

None for the applicant and Shri
Khadatkar, Id. P.O. for the respondents.

The office objection has not been
removed. **After Diwali Vacation.**

Member

(J)

aps

Cont. Petn. St. No. 1837/10
in O.A. No.582/2015.

CORAM : J.D. Kulkarni, Member (J)
DATE : 27th October 2016.
C.A.No.456/2016:-

Shri I. Choudhari, Id. counsel for the applicant and Shri Khadatkar, Id. P.O. for the respondent.

The Id. P.O. submits that the State has filed writ before the Hon'ble High Court, **S.O. after 04 weeks.**

Member

(J)

aps

Cont. Petn. St. No. 1875/16
in O.A. No.614/2016.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

C.A.No.467/2016:-

1. Heard, Shri S.P.Palshikar, Id. counsel for the applicant and Shri Khadatkar, Id. P.O. for the respondent no. 1.
2. The Respondent no. 2, i.e., the Special Inspector General of Police (Now

Add. D.G.) and Director (Wireless) was directed to decide the representation within 06 months from the date of receipt of the order. This order has been passed on 19/11/2015 and till today the representation is not decide. It seems to be prima facie non compliance of the order. Hence issue notice in the C.A. returnable after 04 weeks.

3. Heard Shri S.P.Palshikar, the learned counsel for the applicant and Shri Khadatkar, learned P.O. for respondent No.1.

4. Issue notice to R. 2 to 4 returnable **after four weeks.**

5. Shri Khadatkar, learned P.O. waives notice for respondent No.1. Hamdast granted.

6. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.

7. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.

8. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunals (Procedure) Rules, 1988, and the questions such as limitation and alternate remedy are kept open.

9. The service may be done by hand delivery, speed post or courier and acknowledgement be obtained and produced along with affidavit of compliance in the Registry within three weeks. Applicant is directed to file Affidavit of compliance and notice.

Member

(J)

aps

Cont. Petn. St. No. 1938/16
in O.A. No.450/2010.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

C.A.No.482/2016:-

Shri G.K.Bhusari, Id. counsel for the applicant and Shri S.A.Sainis, Id. P.O. for the respondents.

The Id. P.O. submits that he will file the reply within 03 weeks, **S.O. After 03 weeks.**

Member

(J)

aps

Cont. Petn. St. No. 1910/16
in O.A. No.369/2016.

CORAM : J.D. Kulkarni, Member (J)
DATE : 27th October 2016.
C.A.No.473/2016:-

Shri D.A.Mahajan, Id. counsel for the applicant and Shri S.A.Sainis, Id. P.O. for the respondent.

It seems that vide order dated 01/07/2016 in O.A. 369/2016 the transfer order dated 10/06/2016 was quashed and set aside and the respondents were at liberty to transfer the applicant after following due procedure as laid down in section 22 N of the Police Act (Amended). The Id. counsel for the applicant submit that the applicant is not being allowed to join through the order of his transfer has been set aside and therefore this application. The Id. P.O. submits that he will file the additional affidavit to the C.A. within 04 weeks, **S.O. after 04 weeks for filing reply.**

Member
(J)

aps

O.A. No.561/2015.

CORAM : J.D. Kulkarni, Member (J)
DATE : 27th October 2016.

Heard, Shri D.C.R.Mishra, Id. counsel for the applicant and Shri S.A.Sainis, Id. P.O. for the respondents.

The applicant has insisted for Interim relief claimed in para number 9 of the O.A. for a direction to release his salary withheld by the respondents since August 2014 without a reasonable cause.

The applicant approached the Hon'ble High Court in this regard by filing writ petition number 5851/2016. The Hon'ble High Court of Judicature at Bombay, Nagpur Bench, Nagpur vide order dated 07/10/2016 disposed of the said petition with direction to this Tribunal to decide the application for grant of Interim relief as expeditiously as possible and in any case within a period of six weeks. From the facts on record it seems that the applicant is working as Police Constable and has been declared medically- unfit. The said medical certificate is attached with O.A. at page number 22 from which it seems that the applicant is permanently disabled. It is stated that the applicant is unable to work due to his physical condition.

It seems from the record that the applicant has earlier filed representations on 30/12/2014 and it was intimated to him vide order dated 10/12/2015 that the applicant's wife cannot be accommodated on compensation ground even if the applicant is allowed to retire on medical ground. The fact remain that the applicant is neither allowed to retire nor is able to work.

The Id. counsel for the applicant has invited my attention to proviso to section 47 of the "PERSONS WITH DISABILITIES (EQUAL OPPORTUNITIES, PROTECTION OF RIGHTS AND FULL PARTICIPATION) ACT, 1995". The said section and the relevant provision reads as under

5.47 "Non – discrimination in government employment – (1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

From the aforesaid legal provisions it may be clear that even if the employee becomes completely disable and therefore unable to work, he cannot be removed from service and path is open for adjusting such employee in a suitable post or otherwise as per the provisions. Since the applicant is in service and not yet retired nor removed from service, there is no reasons as to why his salary has not been paid. The Act of 1995 a special Act and therefore the respondent cannot avoid the liability to pay the salary to the applicant.

The Id. P.O. submitted that the provisions of rule 43 of Maharashtra Civil Services (Leave) Rules are applicable to applicant's case.

Whether the applicant is entitle to such salary as per objections in para no. 5 and 6 of the reply affidavit will have to be

considered on merit at the time of final hearing.

From the discussions in foregoing paras it will be clear that the applicant is not retired, nor allowed to retire on the ground of his physical disability. His wife's claim for appointment on compassionate ground is also not considered nor he is adjusted in a suitable post as per Rule 47 of Act of 1995. He is neither dismissed nor removed from the service and hence he is very much in the service. Hence the following order:-

Order

The respondent is directed to release salary, as may be admissible as per rules, to the applicant from August 2014 within 04 weeks from the date of order.

Member

(J)

aps

Cont. Petn. St. No. 1974/16
in O.A. No.260/2004.

CORAM : J.D. Kulkarni, Member (J)
DATE : 27th October 2016.
C.A.No.489/2016:-

Shri P.V.Thakre holding for Shri
M.I.Dhatrak, Id. counsel for the applicant
and Shri S.A.Sainis, Id. P.O. for the
respondent.

S.O. 04 weeks.

Member
(J)

aps

Cont. Petn. St. No. 1979/16
in O.A. No.553/2015.

CORAM : J.D. Kulkarni, Member (J)
DATE : 27th October 2016.
C.A.No.492/2016:-

Shri G.K.Bhusari, Id. counsel for the applicant and Shri S.A.Sainis, Id. P.O. for the respondent.

The Id. P.O. submits that he will file the reply within 04 weeks, **S.O. 04 weeks.**

Member
(J)

aps

Cont. Petn. St. No. 1982/16
in O.A. No.116/2015.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

C.A.No.493/2016:-

Shri M.R.Rajgure, Id. counsel for the applicant and Shri Pandey, Id. P.O. for the respondent.

The Id. P.O. submits that he will file the reply within 04 weeks, **S.O. 04 weeks.**

Member

(J)

aps

Cont. Petn. St. No. 2017/16
in O.A. No.504/2014.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

C.A.No.498/2016:-

1. Heard, Shri M.R.Khan, Id. counsel for the applicant and Shri S.A.Sainis, Id. P.O. for the respondent no. 1.

2. As per the order in O.A. 504/14 dated 08, July 2015 the respondents were directed to finalise pension case of the applicant and to ensure payment of all retiral due as expeditiously as possible and in within 06 months from the order. The Id. counsel submit that till today ever the provisional pension is not paid. In view thereof of there seems to be non-compliance of the direction. Hence issue notice to C.A. returnable **within 04 weeks.**

3. Heard Shri M.R.Khan, the learned counsel for the applicant and Shri

S.A.Sainis, learned P.O. for respondent No.1.

4. Issue notice to R. 2 to 5 returnable **after four weeks.**

5. Shri Shri S.A.Sainis, learned P.O. waives notice for respondent No.1. Hamdast granted.

6. Tribunal may take the case for final disposal at this stage and separate notice for final disposal need not be issued.

7. Applicant is authorized and directed to serve on Respondents intimation / notice of date of hearing duly authenticated by Registry, along with complete paper book of O.A.

8. This intimation / notice is ordered under Rule 11 of the Maharashtra Administrative Tribunals (Procedure) Rules,1988, and the questions such as limitation and alternate remedy are kept open.

9. The service may be done by hand delivery, speed post or courier and acknowledgement be obtained and

produced along with affidavit of compliance in the Registry within three weeks. Applicant is directed to file Affidavit of compliance and notice.

Member

(J)

aps

Cont. Petn. St. No. 1822/16
in O.A. No.437/2005.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

C.A.No.452/2016:-

Heard, Ms. R.V.Kukday, Id. counsel for the applicant and Shri Khadatkar, Id. P.O. for the respondent.

The applicant has prayed for correction of address of applicant number 02 for the reasons stated in the application, the applicant is allowed to correct the same.

O.A.437/2005:-

The Id. P.O. place on record copy of the communication dated 21/10/2016 which is mark exhibit "X" for the purpose

of an identification. It seems from exhibit "X" that the Superintendent Engineer, Nagpur has already forwarded the proposal of the government to satisfy the applicant. The Id. P.O. submits that he will file affidavit as regards compliance of next date. **S.O. 06 weeks.**

Member
(J)

aps

O.A. No.69/2005.

CORAM : J.D. Kulkarni, Member (J)
DATE : 27th October 2016.
M.C.A.No.25, 26 & 70 of 2016:-

Heard, Adv.G.G.Bade, Id. counsel for the applicant and Shri Ghogre, Id. P.O. for the respondents no 1 to 3. None for R-4 to 11.

The Id. counsel for the applicant seeks time to find out the address of the private respondents. **S.O. 04 weeks.**

Member
(J)

aps

O.A. No.676/2016.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

Heard, Adv.S.S.Dhengale, Id. counsel for the applicant and Shri S.Deo, Id. C.P.O. for the respondents no 1 to 3.

In the order dated 25/10/2016 it has been observed that the applicant was taking benefit of the notification dated 28/04/2015 under the exemption of clause 7 (d) . As per said clause if an woman officer which is widow or abandoned, is exempted from application of the notification. The respondents has place on record the document exhibit "X" and

showed willingness to consider applicant's representation if made. The Id. counsel for the applicant was therefore asked to take instruction.

The Id. counsel for the applicant submits that applicant is ready to make comprehensive representation however all the points raise in the O.A. be kept open and the applicant be permitted to file separate O.A., if his representation is not decided favorable.

In view of this the O.A. can disposed of. The applicant may file comprehensive

representation within 03 days and on receipt of this representation, the responsible authority shall take decision within 04 weeks. Decision taken shall be communicated in writing. The applicant is liberty to file separate O.A. The O.A. is disposed of with no order as to cost.

Member
(J)

aps

Cont. Pet. 01/2016 in O.A. No.212/2015.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

Heard, Shri S.P.Palshikar, Id. counsel for the applicant and Smt. Kolhe, Id. P.O. for the respondents.

The Id. P.O. submits that the matter which was under active consideration of finance department has been moved further and now it is been kept before the high power committee of the state for sanction. The Id. P.O. request for 04 weeks time, **S.O. after 04 weeks.**

Member
(J)

aps

O.A. No.43/2015.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

None for the applicant and Shri Ghogre, Id. P.O. for the respondent.

Heard, the Id. P.O. it seems that nobody is appearing for the applicant since long. The applicant remains absent from 30/01/2015, 21/08/2015, 27/10/2015, 18/12/2015, 06/04/2016, 04/05/2016, 01/08/2016, 22/08/2016, 06/09/2016, 04/10/2016, 25/10/2016.

The Id. P.O. submits that the enquiry against the applicant has been dropped and therefore nothing remains in the O.A. In the O.A. the applicant has prayed for quashing and setting aside the Departmental Enquiry. In view thereof it will be clear that there is no reason in serving notices, since the Departmental Enquiry is dropped. This seems to be the reasons as to why nobody is appearing for the applicant. Hence the O.A. stands dismissed in default.

Member
(J)

aps

O.A. No.535/2016.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

None for the applicant and Shri S.Deo, Id. C.P.O. for the respondent no's. 1 & 2. None for R-3.

S.O. after Diwali Vacation.

Member

(J)

aps

O.A. No.550/2016.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

None for the applicant and Shri S.A.Sainis, Id. P.O. for the respondents no.1 & 2. None for R-3.

S.O. 04 weeks to file reply.

Member

(J)

aps

O.A. No.678/2016.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

Shri G.G.Bade, Id. counsel for the applicant and Shri Khadatkar, Id. P.O. for the respondents no. 1 to 4. None for R-5 to 10.

The Id. P.O. seeks time to file reply,
S.O. after Diwali Vacation.

Member

(J)

aps

O.A. No.685/2016.

CORAM : J.D. Kulkarni, Member (J)

DATE : 27th October 2016.

None for the applicant and Shri
S.Deo, Id. C.P.O. for the respondents.

S.O. after Diwali Vacation.

Member

(J)

aps

O.A.No. 653/2009

Coram : Hon. Shri J.D.Kulkarni, M (J).

Dated 27.10.2016.

Shri G.G. Bade, Id. Counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the Respts.

At the request of Id. Counsel for the applicant, **S.O. After Vacation.**

Member (J)

mkw

O.A.No. 462/2012

Coram : Hon. Shri J.D.Kulkarni, M (J).

Dated 27.10.2016.

Ms. Priyanka Marotkar, Id. Counsel holding for Shri A.R. Patil, Id. Counsel for the applicant and Smt. S.V. Kolhe, Id. P.O. for the Respts.

At the request of Id. Counsel for the applicant, **S.O. After Vacation.**

Member (J)

mkw

O.A.No. 789/2015

Coram : Hon. Shri J.D.Kulkarni, M (J).

Dated 27.10.2016.

Chetan Golat, Id. Counsel holding for Shri T.S. Deshpande, Id. Counsel for the

applicant and Shri M.I. Khan, Id. P.O. for the Respts.

At the request of Id. Counsel for the applicant, **S.O. After Vacation.**

Member (J)

mkw

O.A.No. 633/2015

Coram : Hon. Shri J.D.Kulkarni, M (J).

Dated 27.10.2016.

Heard Shri R.V. Shiralkar, Id. Counsel for the applicant and Shri P.N. Warjurkar, Id. P.O. for the Respts.

Closed for orders.

Member (J)

mkw